IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 19TH JANUARY 2007 / 29TH PAUSHA 1928

OP.No. 15008 of 1999(J)

PETITIONER:

SUDARSAN CLAY & CERAMICS LTD., STANDARD POTTERY WORKS COMPLEX, ALUVA, REP. BY ITS MANAGING DIRECTOR A.D.R.PRASAD.

BY ADV. SRI.K.P.DANDAPANI

RESPONDENTS:

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1. THE BOARD FOR INDUSTRIAL AND FINAICIAL RE-CONSTRUCTION, ANSAL CHAMBERS II, BHIKAJI GAMA PLACE, NEW DELHI 110 006.

2. EMPLOYEES STATE INSURANCE CORPORATION, PANCHADEEP BHAVAN, NORTH SWARAJ ROAD, TRICHUR, REP. BY ITS INSPECTOR.

BY GOVERNMENT PLEADER SRI. SURARSHAN
SRI.P.SANKARANKUTTY NAIR
SRI.K.SANDESH RAJA
SRI.K.RAMAKUMAR, SCGSC
SRI. JOHN VARGHESE ASG

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 19/01/2007, THE COURT, ON THE SAME DAY, DELIVERED THE FOLLOWING:

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF RECORD NOTE OF PROCEEDINGS DATED 27-10-1997.

EXT.P2 MODIFIED REPORT.

EXT.P3 COVERING LETTER DT. 23-12-1998.

EXT.P3(a) MODIFIED SCHEME.

EXT.P4 COMPLAINT IN C.C.NO. 385/91 DT. 12-8-1991.

EXT.P5 JUDGMENT IN O.P.1737/1992 DT. 20-1-1998.

[TRUE COPY]

P.S TO JUDGE.

S. Siri Jagan, J.

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O.P. No. 15008 of 1999

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Dated this, the 19th January, 2007.

J U D G M E N T

In this original petition, the petitioner challenges prosecution proceedings initiated against it for non-payment of E.S.I contributions under the Employees State Insurance Act.

2. The Corporation has filed Ext. P5 complaint before the appropriate Magistrate's Court for initiating prosecution proceedings for non-payment of the contributions. However, in the counter statement filed by the 2nd respondent dated 29-12-2006, they have admitted that subsequent to the filing of the complaint before the Chief Judicial Magistrate's Court, Thrissur in C.C. No. 285/1991, the petitioner had paid the contributions. Further, in paragraph 4, they have stated thus:

> "4. E.S.I. Corporation has approved a scheme of amnesty to the employers against whose prosecution action have been launched under Section 85/85-A of the E.S.I. ACT. Accordingly, the prosecution action would be withdrawn with the approval of the Court subject to fulfilling the terms and conditions stipulated in the scheme. The above amnesty scheme is for a limited period of six months from 01.08.2006 to 31.01.2007. The case of the petitioner herein is not however considered for withdrawal under the amnesty scheme due to the following reasons."

This Court had also stayed the prosecution proceedings in this original petition. In the above circumstances, I need only record the submission contained in paragraph 4 of the statement dated 29-12-2006 and dispose of the original petition directing the ESI Corporation to complete the proceedings as promised in paragraph 4 of the statement. Ordered accordingly. I make it clear that the ESI Corporation would honour their promise to withdraw the prosecution

proceedings, if the petitioner has complied with the terms and conditions of the amnesty scheme referred to in paragraph 4.

Sd/- S. Siri Jagan, Judge.

Tds/